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EXAMINER

SIMITOSKI, MICHAEL J

ART UNIT PAPER NUMBER

2134

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/805,555

Applicant(s)

GUDORF ET AL.

Examiner

Michael J. Simitoski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 33,34 and 39 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 and 22-32 is/are allowed.
- 6) ☒ Claim(s) 1-14,16-21 and 35-38 is/are rejected.
- 7) ☒ Claim(s) 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The response of 1/30/2006 was received and considered.
2. Claims 1-40 are pending.
3. Claims 33-34 & 39 are withdrawn.
4. Claims 15 & 22-32 are allowed.
5. Claim 40 is objected to

### ***Response to Arguments***

6. Applicant's arguments filed 1/30/2006 have been fully considered but they are not persuasive.
7. Applicant's response (§A) suggests that claims 14 & 17 satisfy the requirements of §112. However, the amendatory language "conditioned on" removes limitations from the depending claims, thereby failing to further limit the parent claims.
8. Applicant's response (pp. 11-12) argues against Umbreit the amended limitations. Therefore, these arguments are moot.
9. Applicant's response (§B.1) argues that Norris and DiAngelo fail to even suggest that the credit card number is being relied upon to confirm age, but rather simply to arrange for a payment. However, as previously stated, having a credit card number is indicative of a person's age group. Applicant's argument that this is not always effective in *proving* age and that the use of credit card verification can fail does not prove that credit card information does not read upon the limitation "age data". Further, in the previously cited ABA reference "Online services content regulation", the ABA suggests that credit card details are mandatory and one method of

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determining an applicant is not of the correct age is if credit card verification fails (p. 4).

Further, the instantly cited reference to COPA states regarding age verification systems based on credit cards that “A large number of sites operated by the commercial online adult content industry use this system now” (p. 1). Therefore, one having ordinary skill in the art of age verification would read the broad recitation “age data” as being read upon by credit card information and, despite imperfections, be motivated to use this as such. On this same topic, Applicant's cites Umbreit where Umbreit states that credit card issuers issue credit cards to minors. Again, the evidence shows that while this system of age representation has imperfections, it is still used and certainly well known. Further, even if all credit card holders are not adults, most are. As such, it is unreasonable to say that because it is possible for a minor to obtain a credit card, possession of the credit card is not indicative of an age. If Applicant intends to rely on age data being a numerical representation of exact age, or a date of birth, this should be claimed.

10. Applicant's response (pp. 14-15) argues that Lockhart teaches only credit card information, which is not age data. However, the basis for rejection is Lockhart in view of Umbreit. Umbreit teaches a system where an access code is issued to a user (col. 6, lines 17-50) where the access code is indicative of the user's age (col. 3, lines 10-20). As modified by Umbreit, Lockhart sends age information proving the user's age and receives an access code, which is to later be used to attest to the user's age.

11. Applicant's response (§B.2) makes a similar argument against Lockhart in view of Umbreit. The Examiner refers applicant to the previous section of this office action.

12. Applicant's response (§B.3) argues that a credit card does not indicate a personal characteristic. Using a reasonable interpretation, a credit card number indicates the possession of a credit card, which is a personal characteristic. Further, as stated above, many enterprises use credit card information as an indication of age (see ABA reference and newly cited COPA reference).

13. Applicant's response (§B.4) makes the argument that credit card information is not age data. However, as discussed above, one of ordinary skill in the art would accept credit card information as age data because of at least this method's use in industry (see ABA and COPA reference).

#### ***Claim Objections***

14. Claims 14 & 17 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claim recites placing conditions on steps in the independent claim, broadening the scope. If the steps are "conditioned on", the steps are then not performed, and therefore the claim does not further limit the subject matter of the previous claim.

#### ***Claim Rejections - 35 USC § 112***

15. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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16. Claims 14 & 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 14 & 17, the claim is indefinite because the scope of the claim (limitations read in from the depending claims) is unclear if the value of the age information contained in personal information satisfies said cut-off value.

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 1-4, 8, 16 & 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,718,328 to **Norris** in view of U.S. Patent 6,101,482 to DiAngelo et al. (**DiAngelo**).

Regarding claims 1-2, 4, 8 & 35-36, Norris discloses receiving a request for information/movie (col. 4, lines 33-37) from a user of a processing device/user's computer, receiving with at least one processor, personal information/credit card information (col. 5, lines 28-32) associated with said user, said personal information including an address/user address and age information/credit card information (col. 5, lines 28-32), sending a permission request/authenticated URL to said address/user address (col. 5, lines 26-33), said permission request including a request for permission to provide information to said user (contains authenticated URL) (col. 4, lines 54-55), receiving permission in response to said permission

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request/authenticated URL is clicked (col. 4, lines 54-55), and sending information/movie to said user of the processing device/user computer in response to said request for information (col. 5, lines 36-38). Norris lacks the information being pre-stored by the processing device of the user. However, DiAngelo teaches that by storing a credit card number in a client-side cookie, the user will not have to re-input the information each time (col. 5, lines 31-49). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Norris to pre-store the personal information. One of ordinary skill in the art would have been motivated to perform such a modification to allow the client to automatically send the personal information, as taught by DiAngelo (col. 5, lines 31-49).

Regarding claim 3, Norris discloses sending a username (col. 5, lines 6-18).

Regarding claim 16, Norris lacks explicit disclosure of sending a notification is another request for information is received. However, Norris discloses that each time a request is received, a request for permission/authenticated URL is sent. Therefore, it is inherent that another authenticated URL (notification) would be sent if another request was submitted for one.

19. Claim 1, 5, 8, 13 & 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,944,776 to Lockhart et al. (**Lockhart**) in view of **Umbreit**. Lockhart discloses receiving a request for access to content/permit from the user of a client of the network (col. 21, lines 40-48), receiving personal information (user ID, email address, credit card information) regarding the user, said personal information including data representative of a user's age/credit card and an email address on said network (col. 21, lines 40-48), sending an email to said address indicating said request was received (col. 7, lines 41-53), sending the content/permit to said user

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if a permission response is received in response to said email (col. 7, lines 41-53). Lockhart lacks the personal information being pre-stored and lacks sending an email if the age data indicates the user is older than a particular age. However, Umbreit teaches that to verify that a user is older than a particular age (col. 3, lines 10-20), an access code can be issued to a user to be given to content sites, which allows the content site to verify the user is older than a particular age (col. 6, lines 17-50). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lockhart to send a pre-stored (received in email) access code from the client to the clearinghouse, and to cause the clearinghouse to verify the access code, to verify the user is older than a particular age. One of ordinary skill in the art would have been motivated to perform such a modification to allow access to data requiring a particular rating, as taught by Umbreit (col. 3, lines 10-20 & col. 6, lines 17-50).

20. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,944,776 to Lockhart et al. (**Lockhart**) in view of **Umbreit**, in further view of U.S. Patent 6,688,891 to **Sanford**.

Regarding claims 6-7, Lockhart discloses receiving a request for access to content/permit from the user of a client of the network (col. 21, lines 40-48), receiving personal information (user ID, email address, credit card information) regarding the user, said personal information including data representative of a user's age/credit card and an email address on said network (col. 21, lines 40-48), sending an email to said address indicating said request was received (col. 7, lines 41-53), sending the content/permit to said user if a permission response is received in response to said email (col. 7, lines 41-53). Lockhart lacks the personal information being pre-



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stored and lacks sending an email if the age data indicates the user is older than a particular age. However, Umbreit teaches that to verify that a user is older than a particular age (col. 3, lines 10-20), an access code can be issued to a user to be given to content sites, which allows the content site to verify the user is older than a particular age (col. 6, lines 17-50). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lockhart to send a pre-stored (received in email) access code from the client to the clearinghouse, and to cause the clearinghouse to verify the access code, to verify the user is older than a particular age. One of ordinary skill in the art would have been motivated to perform such a modification to allow access to data requiring a particular rating, as taught by Umbreit (col. 3, lines 10-20 & col. 6, lines 17-50). As modified, Lockhart lacks sending the requested content to the processing device based on whether another user replies to said request to permit access. However, Sanford teaches a system where parents received and respond to email messages (col. 28, lines 24-31) from teachers (col. 29, lines 28-42) to give parental approval (such as for permission slips) (col. 3, lines 51-53). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Lockhart system to have a parent respond to the request for permission (email with authenticated URL) to download the content. One of ordinary skill in the art would have been motivated to perform such a modification to give parental permission to download the content, as taught by Sanford (col. 3, lines 51-53, col. 28, lines 24-31 & col. 29, lines 28-42).

21. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Norris and DiAngelo**, as applied to claim 8 above, in further view of U.S. Patent 6,167,382 to Sparks et al.

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(**Sparks**). Norris, as modified above, lacks where the information is sent back to the user for accuracy verification. However, Sparks teaches an Internet commerce system that boasts the benefit of allowing the design and purchasing of products from a single entry point in a computer system (col. 1, lines 5-16). Sparks also teaches the entry of billing information (credit card) (Fig. 60) and the sending of that information back to a user for confirmation of its accuracy (Fig. 61) and chooses “cancel” to return to supply the correct information (Fig. 61). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to send the credit card information back to the user for accuracy verification. One of ordinary skill in the art would have been motivated to perform such a modification to verify data entered while purchasing products, as taught by Sparks (col. 1, lines 5-16, Fig. 60 & Fig. 61).

22. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Norris** and **DiAngelo**, as applied to claim 8 above, in further view of U.S. Patent 5,963,915 to **Kirsch**.

Norris, as modified above, lacks the option not to supply the credit card information and lacks prompting the user to enter the information if the user had opted not to include it in the request. However, Kirsch teaches that the use of cookies to store account/billing information is useful because it allows the user to be authenticated via a pre-established relationship (col. 7, lines 58-62). The cookie (which is just a piece of data, often encrypted, that contains information about the sender) can be sent with the request to process a transaction; if the cookie is not present, the user is prompted to enter the information required for the purchase (col. 7, line 55 – col. 8, line 20). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was to give the user the option to include the credit card information in a request for

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information/registration and to prompt the user for the credit card information if the user opted not to include it in the original request (established a pre-established relationship). One of ordinary skill in the art would have been motivated to perform such a modification to allow the user to utilize a pre-established relationship for authentication and to establish a new one if a relationship hadn't been previously established, as taught by Kirsch (col. 7, line 55 – col. 8, line 20).

23. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Norris** and **DiAngelo** in view of “Government opens defense of online pornography law” by the Associated Press (**AP**).

Regarding claims 18-19, Norris discloses sending a request to a server for access to content/movie (col. 4, lines 33-37) and sending personal information/credit card information (col. 5, lines 28-32) associated with said user, said personal information including age data/credit card information (col. 5, lines 28-32) and gaining access or being denied access to said content (col. 5, lines 36-38). Norris lacks the age data being stored by the processing device of the user and lacks automatically providing the stored age data in response to a request for said age data and gaining or being denied access dependent upon whether said age data indicates that the user is older than a particular age. However, DiAngelo teaches that by storing a credit card number in a client-side cookie, the user will not have to re-input the information each time (col. 5, lines 31-49). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Norris to store the personal information/credit card information on the client and automatically provide the stored age data/credit card information in response to

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a request. One of ordinary skill in the art would have been motivated to perform such a modification to allow the client to automatically send the personal information, as taught by DiAngelo (col. 5, lines 31-49). Further, AP teaches that the government is supporting a law to require commercial websites to collect a credit card number or access code as proof of age before allowing Internet users to view material deemed “harmful to minors” (p. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Norris to explicitly collect the credit information to verify the user is not a minor. One of ordinary skill in the art would have been motivated to perform such a modification to comply with law, as taught by AP (p. 1).

24. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Norris, DiAngelo and AP**, as applied to claim 18 above, in further view of “Net Nanny Features and Benefits” by Foster & Associates (**Foster**). Norris, as modified above, lacks maintaining a log of each request for content. However, Foster teaches that the Net Nanny software can be configured to “log all URLs accessed” (page 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Norris, as modified above, to maintain a log of each request for content. One of ordinary skill in the art would have been motivated to perform such a modification to gain the benefits of monitoring data access through a PC, as taught by Foster (pages 1-2).

25. Claims 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Norris and DiAngelo**, as applied to claim 36 above, in further view of “Free On-Line Dictionary” by **LinuxGuruz**.

Regarding claim 37, Norris, as modified above, lacks a Java applet. However, LinuxGuruz teaches that Java is a web language that is platform independent that uses “applets” (page 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use Java applets. One of ordinary skill in the art would have been motivated to perform such a modification to gain the freedom of platform-independence, as taught by LinuxGuruz (page 3).

Regarding claim 38, Norris lacks specifically implementing the system in a browser plug-in. However, LinuxGuruz teaches that plug-ins are used to extend the functionality of a parent application, such as a web browser (page 5). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the method in a browser plug-in. One of ordinary skill in the art would have been motivated to perform such a modification to extend the functionality of the browser, as taught by LinuxGuruz (page 5).

***Allowable Subject Matter***

26. Claims 15 & 22-32 are allowed.

27. Claim 40 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

28. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 15 & 40, the prior art relied upon fails to teach or suggest receiving personal information, which is pre-stored by the processing device, including an address and age information wherein said personal information includes a second address associated with said user, said method further including the step of notifying said user at said second address if said permission was received in response to said permission request in combination with the rest of the elements of the claim.

Regarding claim 22, the prior art relied upon fails to teach or suggest receiving pre-stored personal information including age data representative of said user's age and if said age data indicates that the user is older than said particular age, then sending an email to said address indicating that said request was received, sending the content to said user if a permission response is received in response to said email wherein the response is an email reply, in combination with the other elements of the claim.

Regarding claims 23-29 & 32, **Lockhart** teaches submitting personal information including an email address, receiving a confirmation at the email address and receiving, at said email address, a permit to access requested content if a permission response is received in response to said email (col. 7, lines 41-53), but lacks restricting content to users based on a cut-off value and comparing the value indicating the personal characteristic with the cut-off value. **Umbreit** discloses pre-storing an email address, credit card information, etc. and submitting this information (col. 3, lines 10-20 & col. 6, lines 17-50) and pre-storing an access code that is associated with a personal characteristic (associated with age group) to be submitted with a request to access content and receive the content. However, **Umbreit's** access code does not indicate the personal characteristic, and **Umbreit** does not pre-store the information/access code

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indicating and does not compare the access code to a cut-off value to determine if an email is received at said email address to request a permit to access the content. The reference to **GO Network** teaches that when a guest is under 13 years of age, he/she is required to provide the email address of his/her parent or guardian, who then receives an email asking them to validate the account (p. 3). However, **GO Network** does not pre-store the personal information and e-mail address and does not appear to receive the parent email address if the guest is not under a certain age.

Regarding claims 30-31, the prior art relied upon fails to teach or suggest pre-storing personal information, sending the personal information from the processing device to a content provider, receiving at said email address a request to permit access, said step of receiving being dependent upon a comparison of the value stored in said personal information, sending the requested content to the processing device dependent upon whether another user replies to said request to permit access, wherein said step of storing personal information includes obtaining the age of said user and, if the age is below a particular age, then obtaining and storing said email address, in combination with the other elements of the claim. The reference to **GO Network** teaches that when a guest is under 13 years of age, he/she is required to provide the email address of his/her parent or guardian, who then receives an email asking them to validate the account (p. 3). **GO Network** also implies that the email address of the parent is stored because it is referred to upon subsequent events (p. 3). However, **GO Network** does not pre-store the personal information and e-mail address, does not request an age from the user, and does not appear to receive the parent email address if the guest is not under a certain age.

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***Conclusion***

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Simitoski whose telephone number is (571) 272-3841. The examiner can normally be reached on Monday - Thursday, 6:45 a.m. - 4:15 p.m.. The examiner can also be reached on alternate Fridays from 6:45 a.m. - 3:15 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis Jacques can be reached at (571) 272-6962.

**Any response to this action should be mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Or faxed to:**

(571) 273-8300  
(for formal communications intended for entry)

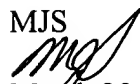
**Or:**

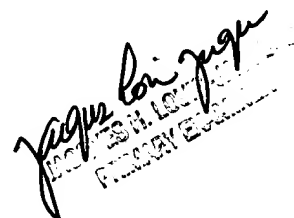
(571) 273-3841 (Examiner's fax, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJS

  
March 20, 2006

  
JACQUES LOUIS JACQUES  
PATENT EXAMINER